

Appl. No.: 10/008,663
Grp./A.U. 1615

Remarks:

Favorable consideration and allowance of the instant application is respectfully requested in view of the following remarks.

Claims 1, 3-6, 8-11 and 13-15 are pending in this application. Claims 2, 7 and 12 have been cancelled, without prejudice. Claims 1, 6 and 11 have been amended. No new matter is thought to be introduced thereby.

Claims 1, 3-6 and 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Grollier et al. (US 4,933,177). This rejection is respectfully traversed for the following reasons.

Initially, Applicant would like to note that it is very well settled that a factual determination of anticipation requires the disclosure, in a single reference, of each and every element of the claimed invention, and an Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. See, In re Levy, 17 USPQ2d 1561 (Bd. Pat. App. & Inter. 1990). Applicant respectfully submits that since the Grollier reference fails to disclose the use of an astringent compound based on a mixture of butylene glycol and mushroom extract, it cannot serve to anticipate the claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1 and 3-5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Goldstein et al. (US 4,963,350). This rejection is respectfully traversed for the following reasons.

As was noted above with respect to the previous rejection, a factual determination of anticipation requires the disclosure, in a single reference, of each and every element of the claimed invention, and an Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. See, In re Levy, supra. Applicant

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respectfully submits that since the Goldstein reference fails to disclose the use of an astringent compound based on a mixture of butylene glycol and mushroom extract, it cannot serve to anticipate the claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 3-5, 11 and 13-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Moore (US 4,944,939). This rejection is respectfully traversed for the following reasons.

Here, too, because the Moore reference fails to disclose the use of an astringent compound based on a mixture of butylene glycol and mushroom extract, it cannot serve to anticipate the claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-10 are rejected under 35 U.S.C. § 102(a) as being anticipated by JP 411322534 A. This rejection is respectfully traversed for the following reasons.

The JP reference appears to be directed to the formation of a ceramide synthesis accelerator by somehow combining a lactic acid bacteria culture, a bifidus bacterium culture, a mushroom cell body, a yeast plant, and butylene glycol. It appears, based on a reading of the Abstract, that the above-identified bacteria are somehow cultured in butylene glycol to form the desired accelerator. It is unclear, however, what the final product is, i.e., is it merely a mixture of all of these ingredients, or does some sort of a reaction/synthesis occur. Moreover, it is also not clear whether a mushroom cell body is the same as a mushroom extract or whether it is a cell removed from a mushroom. In any event, Applicant respectfully submits that it cannot be determined what the final product of the JP reference is and whether it contains one of the claimed components, namely, a mushroom extract. As a result, this reference should not be relied upon to anticipate the claimed invention.

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Accordingly, for all of the above-stated reasons, reconsideration and withdrawal of this rejection is respectfully requested.

It is believed that the foregoing reply is completely responsive under 37 CFR 1.111 and that all grounds for rejection are completely avoided and/or overcome. A Notice of Allowance is therefore earnestly requested.

The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,



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